

AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 809**

**Introduced by Assembly Member Salinas**

February 22, 2001

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An act to add Sections 4017.5, 4040.2, and 4110.1 to the Business and Professions Code, relating to remote pharmacies, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 809, as amended, Salinas. Remote pharmacies.

Existing law provides for the licensing and regulation of pharmacies by the California State Board of Pharmacy in the Department of Consumer Affairs.

This bill would authorize the board to issue a remote pharmacy license, allowing a pharmacy to use an automated dispensing device, if an applicant can ~~certify~~ *establish that there is* a shortage of pharmacists in the proposed service area ~~that limits patient access to prescription services~~. The bill would require patient consultation with a pharmacist via a telecommunications link with 2-way audio and video capabilities, and would require that the pharmacist have access to relevant medical information, *that he or she be located in California*, and *that he or she* initiate and authorize the release of the dangerous drugs or devices from the automated dispensing device. The bill would also require a pharmacist to be responsible for the stocking, inventory maintenance, and use of the automated dispensing device. The dangerous drugs and devices delivered to the remote pharmacy would have to be signed for, and received by, either the pharmacist-in-charge, or, if he or she were

unavailable, a pharmacist that he or she designated. ~~Because~~ *The bill would require the California State Board of Pharmacy to adopt regulations specifying other activities a pharmacist operating a remote pharmacy may engage in.*

*Because* this bill would provide additional fees and penalties that would be deposited into the Pharmacy Board Contingent Fund which is continuously appropriated, the bill would make an appropriation.

Existing law generally makes it a misdemeanor to knowingly violate the Pharmacy Law.

Because operating a remote pharmacy in violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 4017.5 is added to the Business and
- 2 Professions Code, to read:
- 3 4017.5. "Automated dispensing device" means a device that
- 4 contains secured dangerous drugs and dangerous devices, and
- 5 from which dangerous drugs and dangerous devices are packaged
- 6 and labeled for dispensing to a patient or patient's agent.
- 7 SEC. 2. Section 4040.2 is added to the Business and
- 8 Professions Code, to read:
- 9 4040.2. "Remote pharmacy" is a licensed pharmacy that uses
- 10 an automated dispensing device, as defined in Section 4017.5, to
- 11 dispense dangerous drugs and dangerous devices to patients from
- 12 that location pursuant to Section 4110.1. Each remote pharmacy
- 13 site shall be individually licensed with the board.
- 14 SEC. 3. Section 4110.1 is added to the Business and
- 15 Professions Code, to read:
- 16 4110.1. (a) The board may issue a license to operate a remote
- 17 pharmacy provided that the applicant can ~~certify~~ *establish that a*

1 shortage of pharmacists *exists* in the remote pharmacy's proposed  
2 service area ~~that limits patient access to prescription services using~~  
3 ~~the method defined in Appendix F of Chapter 1 of Part 5 of Title~~  
4 ~~42 of the Code of Federal Regulations.~~

5 (b) The automated dispensing device used at the remote  
6 pharmacy shall permit patient consultation with a pharmacist via  
7 a telecommunications link that has two-way audio and video. ~~The~~  
8 ~~Only a pharmacist shall~~ may initiate and authorize the release of  
9 the dangerous drug or dangerous device from the automated  
10 dispensing device. The pharmacist *operating the automated*  
11 *dispensing device shall be located in California, shall provide*  
12 consultation services, and shall have access to the prescription,  
13 patient profile, or other relevant medical information.

14 (c) The dangerous drugs and dangerous devices dispensed at  
15 the remote pharmacy shall be provided to the patient or the  
16 patient's agent by a pharmacy technician or a licensed health care  
17 provider after patient consultation with a pharmacist has been  
18 initiated.

19 (d) The remote pharmacy shall be subject to all federal and state  
20 laws that apply to pharmacies, except for those statutes or  
21 regulations specifically waived by the board.

22 (e) The stocking, inventory maintenance, and use of the  
23 automated dispensing devices shall be the responsibility of a  
24 pharmacist. The dangerous drugs and dangerous devices ordered  
25 for dispensing at the remote pharmacy shall be delivered to the  
26 licensed premises and signed for, and received by, the  
27 pharmacist-in-charge or, in his or her absence, another pharmacist  
28 designated by the pharmacist-in-charge.

29 (f) The fee for licensure of a remote pharmacy shall be the same  
30 as for a pharmacy licensed pursuant to Section 4110.

31 SEC. 4. *The California State Board of Pharmacy shall adopt*  
32 *regulations on or before January 1, 2003, specifying the other*  
33 *activities a pharmacist may engage in when operating an*  
34 *automated dispensing device pursuant to Section 4410.1 of the*  
35 *Business and Professions Code.*

36 SEC. 5. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 the only costs that may be incurred by a local agency or school  
39 district will be incurred because this act creates a new crime or  
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of  
2 the Government Code, or changes the definition of a crime within  
3 the meaning of Section 6 of Article XIII B of the California  
4 Constitution.

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